

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jackie Manginelli	Team: Squad #10	CCRB Case #: 201908053	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/11/2019 5:50 PM	Location of Incident: 34th Street - Penn Station subway stop on the A/C/E line	Precinct: 14	18 Mo. SOL 3/11/2021	EO SOL 10/26/2021	
Date/Time CV Reported Wed, 09/11/2019 7:44 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 09/11/2019 7:44 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Garry Lamour	30321	950716	TB DT02
2. POM Robert Cohen	14619	929913	TB DT02

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Yeuris Mejia	03936	937087	TB DT02

Officer(s)	Allegation	Investigator Recommendation
A.POM Garry Lamour	Abuse: Police Officer Garry Lamour stopped § 87(2)(b)	
B.POM Robert Cohen	Abuse: Police Officer Robert Cohen stopped § 87(2)(b)	
C.POM Garry Lamour	Abuse: Police Officer Garry Lamour threatened to arrest § 87(2)(b)	
D.POM Garry Lamour	Abuse: Police Officer Garry Lamour failed to provide § 87(2)(b) with a business card.	
E.POM Robert Cohen	Abuse: Police Officer Robert Cohen failed to provide § 87(2)(b) with a business card.	
F.POM Garry Lamour	Abuse: Police Officer Garry Lamour took photographs of § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On September 11, 2019, § 87(2)(b) filed the following complaint with the CCRB via the call-processing system. This case was originally assigned to Inv. Lyon and was reassigned to Inv. Manginelli on December 12, 2019.

On September 11, 2019, at approximately 5:50 p.m., § 87(2)(b) got off an E train at 34<sup>th</sup> Street in Manhattan. PO Garry Lamour and PO Robert Cohen, both from Transit District 2, stopped § 87(2)(b) on the train platform for allegedly touching someone on the train (**Allegations A and B: Abuse of Authority: Stop:** § 87(2)(g) PO Lamour asked § 87(2)(b) for his identification and he provided it. § 87(2)(b) asked who the person was who claimed that he touched them, and PO Lamour allegedly said, “I cannot give you that information. We can take you in and you can find out” (**Allegation C: Abuse of Authority: Threat of arrest:** § 87(2)(g)

§ 87(2)(b) asked PO Lamour for a business card and neither he nor PO Cohen provided one to him (**Allegations D and E: Abuse of Authority: Failure to provide RTKA card:** § 87(2)(g) PO Lamour allegedly took a photograph of § 87(2)(b) (**Allegation F: Abuse of Authority: Photography:** § 87(2)(g) The officers could not find the person who made the complaint against § 87(2)(b) and § 87(2)(b) was free to go. He was not issued any summonses nor was he arrested.

§ 87(2)(g), § 87(4-b)

There was no body-worn camera footage of this incident (**Board Review 04**). Footage from the MTA was received, however, did not capture this incident (**Board Review 05-10**).

### Findings and Recommendations

**Allegation A: Abuse of Authority: Police Officer Garry Lamour stopped** § 87(2)(b)

**Allegation B: Abuse of Authority: Police Officer Robert Cohen stopped** § 87(2)(b)

§ 87(2)(b) made a statement to intake on the call processing system on September 11, 2019 (**Board Review 22**) and provided a brief phone statement to the CCRB on September 13, 2019 (**Board Review 23**). § 87(2)(b) was interviewed at the CCRB on September 20, 2019 (**Board Review 01**). PO Cohen was interviewed at the CCRB on January 2, 2020 (**Board Review 02**). PO Lamour was interviewed at the CCRB on August 26, 2020 (**Board Review 03**). PO Mejia was interviewed at the CCRB on November 26, 2019 (**Board Review 21**).

§ 87(2)(b) consistently stated that he got on an uptown-bound A, C, or E train at 8<sup>th</sup> Avenue. Although the train was packed, there was enough space that people were not touching one another. § 87(2)(b) did not observe PO Lamour or PO Cohen on the train. At the next stop, 23<sup>rd</sup> Street, a male briefly touched § 87(2)(b)'s shoulder and said, “excuse me,” as he exited the train. § 87(2)(b) did not make any other physical contact with anyone at any point. He exited the train at 34<sup>th</sup> Street Penn Station and walked approximately 10 to 15 feet toward the exit. PO Lamour and PO Cohen walked around § 87(2)(b) and stopped in front of him. PO Lamour briefly showed § 87(2)(b) his shield and instructed him to stop. PO Lamour had a silver colored shield. PO Lamour asked for § 87(2)(b)'s ID and asked him whether he had a criminal record. PO Cohen took § 87(2)(b)'s driver's license and appeared to type something on his cellphone. PO Cohen

asked § 87(2)(b) whether his first name was § 87(2)(b) or § 87(2)(b) and § 87(2)(b) told PO Cohen that his first name was § 87(2)(b).

PO Lamour stated that he and PO Cohen, were on a somewhat crowded north-bound E train. PO Cohen was standing towards the front of the train car and PO Lamour was standing towards the back. PO Cohen was approached by a Hispanic woman who claimed to be touched and groped on her buttocks by § 87(2)(b) and pointed him out. § 87(2)(b) was somewhat close to where the woman and PO Cohen were standing. PO Lamour could not hear the conversation that PO Cohen was having with the woman from where he was standing. PO Lamour did not see § 87(2)(b) on the train car prior to stopping him on the platform. He did not see anything else of note on the train car apart from PO Cohen speaking with the woman. PO Cohen went to speak with PO Lamour, and they agreed that they would stop § 87(2)(b) at 34<sup>th</sup> Street. The officers got off the train to speak with § 87(2)(b). PO Lamour did not recall if they asked § 87(2)(b) to get off at 34<sup>th</sup> Street or if he was already getting off at 34<sup>th</sup> Street. They spoke with § 87(2)(b) near the staircase to 33<sup>rd</sup> Street. PO Lamour spoke with § 87(2)(b) on the train platform and asked for his license while PO Cohen looked for the victim who had disappeared. § 87(2)(b) provided his license to PO Lamour. PO Lamour told him that they were police officers and asked to speak with him.

PO Cohen stated that PO Lamour told him to, “Get the girl,” and he did not know what PO Lamour was talking about. PO Cohen ran after a girl and did not know who she was or what she looked like. PO Cohen could not find the girl who had walked away. When PO Cohen returned to the platform, PO Lamour had stopped § 87(2)(b). PO Lamour did not tell PO Cohen why he had stopped § 87(2)(b). He did not remember what § 87(2)(b) looked like. He did not observe § 87(2)(b) prior to stopping him on the platform. He did not remember the conversation that PO Lamour had with § 87(2)(b). § 87(2)(b) handed PO Cohen his ID card and he performed a warrant check by calling his command on his cellphone. The warrant check came back negative. PO Cohen believed that only PO Lamour stopped § 87(2)(b).

PO Mejia stated that he ran warrant audits on behalf of officers through the DAS Lite system. Typically, plainclothes officers request warrant audits from him over the phone either by text or call. Any officer in the command, uniformed or in plainclothes, can ask him to run a warrant audit. He did not remember specifically whether he ran any warrant audits on September 11, 2019 and did not know any other details about this incident.

The investigation obtained PO Lamour’s memo book (**Board Review 24**). On the fly page, he notes that at 5:45 p.m. he and PO Cohen stopped a Hispanic male. A Hispanic woman claimed to be touched. They identified § 87(2)(b) § 87(2)(b) § 87(2)(b) at 23<sup>rd</sup> Street on a north-east bound A train. They stopped § 87(2)(b) at 34<sup>th</sup> Street and 8<sup>th</sup> Ave, and the Hispanic woman disappeared and was unable to be re-located. The officers explained the nature of the stop to § 87(2)(b) and he was released because he explained that he was running late for work.

It was undisputed that PO Lamour stopped § 87(2)(b). Although, PO Cohen denied that he stopped § 87(2)(b) and believed that only PO Lamour stopped § 87(2)(b) the investigation determined that because he assisted PO Lamour in performing a warrant check for § 87(2)(b) and because both PO Lamour and § 87(2)(b) confirmed that PO Cohen stopped § 87(2)(b) the investigation determined that PO Cohen stopped § 87(2)(b).

Although it was undisputed that PO Lamour and PO Cohen stopped § 87(2)(b) § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)

§ 87(2)(g)

**Allegation C: Abuse of Authority: Police Officer Garry Lamour threatened to arrest § 87(2)(b).**

§ 87(2)(b) stated that he asked the officers why he was stopped, and PO Lamour said, “I was looking for you. You touched somebody on the subway.” § 87(2)(b) asked the officers who said that he touched them, and PO Lamour responded, “It doesn’t work that way I cannot give you that information. We can take you in and you can find out.”

PO Lamour stated that he told § 87(2)(b) that a woman claimed that he groped and touched her, and that § 87(2)(b) complained that he was late for work. PO Lamour said that he was sorry for the inconvenience he was causing § 87(2)(b) but that a woman claimed that he groped and touched her. He told § 87(2)(b) that his partner was trying to find the woman who made the accusation and that if they could not find her then they would let him leave. He did not tell § 87(2)(b) that he could be arrested. He explained to § 87(2)(b) that he was not under arrest and that the person who was accusing him could not be found.

PO Cohen stated that he did not recall if him or his partner told § 87(2)(b) that he could be arrested. PO Cohen did not remember PO Lamour threatening to arrest § 87(2)(b).

§ 87(2)(g)

**Allegation D: Abuse of Authority: Police Officer Garry Lamour failed to provide § 87(2)(b) with a business card.**

**Allegation E: Abuse of Authority: Police Officer Robert Cohen failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) stated he asked PO Lamour, “Can I have your card?” and explained that he wanted something to give to his boss to show why he was late to work. PO Lamour did not provide a card and told § 87(2)(b) to call his boss. PO Lamour pointed at the MTA surveillance camera and said, “That’s your proof.”

PO Lamour stated that § 87(2)(b) did not ask him for a business card at any point, nor did he ask him for a business card to show his boss why he was late to work. PO Lamour thought that if he stopped someone then he had to provide them with a business card. PO Lamour thought that § 87(2)(b) was more concerned with getting to work, and in the process, he forgot to give him a business card. PO Lamour had business cards on him at the time of the incident. PO Lamour did not recall if PO Cohen provided § 87(2)(b) with a business card.

PO Cohen stated that he did not recall if § 87(2)(b) asked him for his business card. PO Cohen did not remember seeing PO Lamour give § 87(2)(b) a business card. PO Cohen believed that he had to provide a business card to someone when they asked for one and when he stopped someone. PO Cohen believed that PO Lamour stopped § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

According to the Right to Know Act as defined in Section 14-174 of the New York City Administrative Code, an officer must offer a business card to someone at the conclusion of any law enforcement activity defined under the act, including pedestrian stops, that does not result in an arrest or summons (**Board Review 12**).

According to Patrol Guide Procedure 203-09, an officer must provide a business card for a law enforcement activity, including a stop; where an officer has an individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter (**Board Review 13**).

§ 87(2)(g)

**Allegation F: Abuse of Authority: Police Officer Garry Lamour took photographs of § 87(2)(b)**

§ 87(2)(b) stated that he bent down and took a small notebook out of his backpack to look for a phone number to call his boss. When he stood back up, PO Lamour took a photograph of him. § 87(2)(b) Gonzales said, “Why’d you take my picture,” and PO Lamour did not provide a response.

PO Lamour did not recall taking any photographs of § 87(2)(b) during this incident. He would not have needed to take a photograph of § 87(2)(b) and said that if he had a photo of him then he would still have it on his phone.

PO Cohen stated that he did not recall if he or PO Lamour took any photographs during this incident.

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b) [Redacted]  
[Redacted]

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

[Redacted]  
[Redacted]  
[Redacted]

§ 87(4-b), § 87(2)(g) [Redacted] -  
[Redacted]

[Redacted]  
[Redacted]  
[Redacted]

[Redacted]  
[Redacted]

[Redacted]  
[Redacted]

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

[Redacted]  
[Redacted]

§ 87(2)(g), § 87(4-b) [Redacted] -  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

[Redacted]  
[Redacted]

[Redacted]  
[Redacted]

[Redacted]  
[Redacted].

**Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 16**).
- PO Garry Lamour has been a member of service for nine years and has been a subject in four previous CCRB complaints and twelve previous allegations.
  - In CCRB case number 201301141, an abuse of authority (frisk) allegation, an abuse of authority (stop) allegation, and an abuse of authority (search of person) allegation were all substantiated against PO Lamour. An abuse of authority (refusal to provide name/shield number) allegation was unsubstantiated. APU found PO Lamour guilty and he had to forfeit six vacation days for each allegation.
  - In CCRB case number 201310593, a force (physical force) allegation, an abuse of authority (retaliatory arrest) allegation, and a discourtesy (word) allegation were all substantiated against PO Lamour. An abuse of authority (property damage) allegation and an offensive language (sexual orientation) allegation were unsubstantiated. An abuse of authority (stop) was exonerated. APU found PO Lamour guilty and he had to forfeit six vacation days for each allegation.
- PO Robert Cohen has been a member of service for eighteen years and has been a subject in one previous CCRB complaint and one previous allegation. The previous complaint was withdrawn.

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b)
- There was no Notice of Claim located in relation to this complaint (**Board Review 17**).
- § 87(2)(c)

Squad No.: 10

Investigator: <u>Jackie Manginelli</u>	<u>Inv. Jackie Manginelli</u>	<u>09/29/2020</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Eric Rigie</u>	<u>IM Eric Rigie</u>	<u>9/29/2020</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date